

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

OSCAR SOLIS,

Defendant.

Case No. 89-20004

HONORABLE AVERN COHN
HONORABLE STEVEN D. PEPE

REPORT AND RECOMMENDATION

Defendant filed his Motion to Amend Judgment pursuant to Rule 36 of the Federal Rules of Criminal Procedure (Dkt. # 374) on September 1, 2005. Defendant asked this Court to amend its May 26, 1999, Judgment in order to give credit for time Defendant served from April 4, 1998, to February, 1999.

The Supreme Court has held that “Federal regulations have afforded prisoners administrative review of the computation of their credits,” but that judicial review of the computation is available for Prisoners only “after exhausting their administrative remedies.” *United States v. Wilson*, 503 U.S. 329, 335 - 336 (1992). Because Defendant’s initial motion failed to plead or otherwise demonstrate exhaustion, Defendant was ordered to show cause by April 21, 2006 (in a March 31, 2006, order), that he had exhausted his administrative remedies as required under *Wilson* before seeking relief from this Court. Defendant has not done so.

Therefore IT IS RECOMMENDED that Defendant’s motion should be dismissed for failure to state a claim.

The parties to this action may object to and seek review of this report and

recommendation, but are required to act within ten (10) days of service of a copy hereof as provided for in 28 U.S.C.. § 636(b)(1) and E.D. Mich. LR 72.1(d)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Sec'y of HHS*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Filing of objections which raise some issues but fail to raise others with specificity, will not preserve all the objections a party might have to this report and recommendation. Pursuant to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon this magistrate judge. Within ten (10) days of service of any objecting party's timely filed objections, the opposing party may file a response. The response shall be not more than twenty (20) pages in length unless by motion and order such limit is extended by the court. The response shall address specifically, and in the same order raised, each issue contained within the objections.

Dated: May 31, 2006
Ann Arbor, Michigan

s/Steven D. Pepe
UNITED STATES MAGISTRATE JUDGE

Certificate of Service

I hereby certify that a copy of this Report and Recommendation was served upon the parties of record by electronic means and/or U. S. Mail on May 31, 2006.

s/William J. Barkholz
Courtroom Deputy Clerk